THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.1747 AND 1765 OF 2007

DATED: 20-02-2007

WRIT PETITION No.1747 of 2007

BETWEEN

D. Sundara Raja Swamy,
S/o. Subrahmanayam,
Occ: Business, R/o. Chirala,
Chirala Mandal, Prakasam District.

...PETITIONER

AND

The Chief Controller of Explosives,
Koti, Hyderabad and others.

...RESPONDENTS

WRIT PETITION No.1765 of 2007

BETWEEN

Potti Narayana, S/o. Yanadi Setty,
Occ: Business, R/o. Chirala,
Chirala Mandal, Prakasam district,
Proprietor of M/s. Venkatasai Enterprises,
Santha Bazar, Chirala, Prakasam District.

...PETITIONER

AND

The Chief Controller of Explosives,
Koti, Hyderabad and others.

...RESPONDENTS

COMMON ORDER:

Petitioners in both the writ petitions have obtained licence under Form K under Article 5 of the Schedule IV of Explosives Act, 1884 (for short 'the Act) and the Explosives Rules, 1983 (for short 'the Rules') made under the Act, for sale of fire works defined as explosives under the Act and classified as Class 7 under Schedule I of Rule 3 of the Rules; in respect of the premises bearing No.23-10-90, Santha Bazar, Chirala, belonging to the petitioner in W.P.No.1747 of 2007 and in respect of premises bearing No.20/239/2, Chirala Town, belonging to the petitioner in W.P.No.1765 of 2007.

2. It is stated that the first petitioner stocked the fire works in two other godowns in respect of which no licences have been granted and the petitioner in the second writ petition also stocked fire works in the unlicensed godown. All the three godowns have been searched and stocks worth Rs.11,50,000/- have been seized. It is stated that insofar as stocks found in the licenced shops there would be no seizure. Even in respect of the fireworks seized from the godowns it was found that those fireworks were not unauthorized but they have been secured from the manufacturers. When the same was intimated to the Regional Vigilance and Enforcement Officer, it was stated that their department is concerned with the assessment of tax involved in respect of the fireworks purchased by the traders and the physical stocks are no required for further proceedings.

3. Learned counsel for the petitioners submits that there is no provision under the Act or the Rules empowering the authorities to confiscate the

stocks but the licensing authority can only impose appropriate punishment which may extend to two years imprisonment or fine which may extend to Rs.3,000/-.

4. The writ petitions were filed on 31.01.2007 and this Court ordered notice before admission on 01.02.2007 and after receiving the said notice the second respondent issued a show cause notice in Rc.C5/1213/2006 dated 22.01.2007, which was served on the petitioner on 03.02.2007. Pursuant to the show cause notice further enquiry is yet to be completed.

5. In view of the aforesaid facts and circumstances, without expressing any opinion on the merits of the case, I am of the opinion that it is just and proper to direct the second respondent to release the said stocks forthwith subject to the condition that the petitioners furnish bank guarantee for 25% of the value of the fireworks seized from the three godowns and also furnish security by way of executing personal bonds for the remaining 75% of the value of the stocks,

to fulfill the proceedings that may be passed.

The writ petitions are accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

February 20, 2007
Note: Furnish C.C. of the order by 22.02.2007
(**B/o**)
DSK